



CCPA-5

April 28, 1970

This is in reply to your letter of March 3, 1970, concerning the application of section 304 of Title III, Restriction on Garnishment of the Consumer Credit Protection Act.

The discharge provisions of section 304 applies to all garnishments. Therefore, if a tax debt results in a court proceeding through which the earnings of the employee are required to be withheld, the employee's discharge for a first time garnishment would be in violation of section 304(a). The protection provided by that section, in other words, is available even though the restrictions in section 303(a) on the amount of garnishment are not applicable to the garnishments listed in section 303(b).

We agree with you that section 304(a) refers to a discharge, and does not mention warnings. But we do not think this distinction helps in the case of an actual discharge under a rule requiring or permitting a discharge after a stated number of warnings, if one of the requisite warnings in the case has been given by reason of a first time garnishment.

Clearly, under section 304(a), no discharge may be based, either wholly or partly, on a first time garnishment. Where one of the warnings required by a warning-discharge rule is given to an employee because of such a garnishment, the employee's subsequent discharge pursuant to the rule is literally "by reason of the fact that his earnings have been subjected to garnishment for any one indebtedness." But for that garnishment, the ensuing warning would not have been given and the discharge would not be authorized by the rule.

Accordingly, warnings because of a first time garnishment are not prohibited. But it is prohibited to count such a warning for purposes of a warning-discharge rule as contemplated in this opinion.

Sincerely,

Robert D. Moran
Administrator